

8/1/2013 3:06 pm

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROBERT LIDOWITZ,

Plaintiff,

MEMORANDUM AND ORDER

-against-

CV 12-465 (LDW) (ARL)

RITE AID CORPORATION and RITE AID OF
NEW YORK, INC. d/b/a RITE AID,

Defendants.

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WEXLER, District Judge

Plaintiff Robert Lidowitz (“Lidowitz”) brings this action against defendants Rite Aid Corporation and Rite Aid of New York, Inc. d/b/a Rite Aid (“defendants”) asserting claims for age and disability discrimination in violation of the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§ 621 *et seq.*; the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12101 *et seq.*; and the New York State Human Rights Law (“NYSHRL”), N.Y. Exec. Law § 290 *et seq.* Defendants move for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Lidowitz opposes the motion only as to the disability discrimination claims under the ADA and NYSHRL.

Upon consideration, the Court finds that genuine disputes of material fact exist precluding the entry of summary judgment as to the disability discrimination claims under the ADA and NYSHRL. *See* Fed. R. Civ. P. 56(a) (party seeking summary judgment must demonstrate that “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law”); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322

(1986); *Gallo v. Prudential Residential Servs. Ltd. P'ship*, 22 F.3d 1219, 1223-24 (2d Cir. 1994). Because Lidowitz does not oppose dismissal of the age discrimination claims under the ADEA and NYSHRL, those claims are dismissed with prejudice.

Accordingly, defendants' motion is granted as to the age discrimination claims under the ADEA and NYSHRL, and denied as to the disability discrimination claims under the ADA and NYSHRL.

SO ORDERED.

/s/
LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York
August 1, 2013